

December 12, 2013

Mr. Ford called the workshop meeting of the Union Township Planning Board/Board of Adjustment to order at 7:00 p.m.

Open Public Meetings Act Notice: I would like to have placed in the minutes that the Open Public Meeting Requirements of Law have been satisfied by our notices dated January 17, 2013, as published in the Hunterdon County Democrat and January 15, 2013, as published in the Courier News. A copy of the notice has also been posted on the Township Website, the Bulletin Board in the Municipal Building and a copy has been filed with the Clerk.

Members Present: Ms. McBride, Mr. Bischoff, Mr. Walchuk, Mr. Nace, Mrs. Corcoran, Mr. Ryland, Mr. Kastrud, Mr. Eschbach, Mr. Ford, Mr. Kirkpatrick (7:05 p.m.)

Members Absent: Mr. Badenhausen

Others Present: Atty. Mark Anderson, Robert Clerico, Richard Roseberry, Kendra Lelie, John Titus, George Maalouf, Atty. Joseph Novak, Brian Plushanski, Atty. Jeffrey Lehrer, Robert Gazzale, Elizabeth McKenzie, Peter Stretetz, Atty. Walter Wilson, Thomas Corrigan, Alyce Noonan

Approval of Minutes: Mr. Eschbach made a motion to approve the minutes of the November 14, 2013 meeting. Mr. Ryland seconded the motion.

Vote: Ayes: Mr. Eschbach, Mr. Ryland, Ms. McBride, Mr. Bischoff, Mr. Walchuk, Mr. Nace, Mr. Ford

Abstain: Mrs. Corcoran, Mr. Kastrud, Mr. Kirkpatrick

Memorialization of Resolution: Master Plan Re-Examination Report: Ms. McBride made a motion to memorialize the Resolution. Mrs. Corcoran seconded the motion.

Vote: Ayes: Ms. McBride, Mrs. Corcoran, Mr. Bischoff, Mr. Walchuk, Mr. Nace, Mr. Ryland, Mr. Kastrud, Mr. Ford, Mr. Kirkpatrick

Issue of Completeness: Titus-Brennan: Block 9, Lots 1.05 and 1.06, Serpentine Drive: Minor

Subdivision/Lot Line Adjustment: Mr. Clerico gave an overview of the application and his letter dated December 9, 2013. The proposal is to relocate the Titus driveway because of unsafe existing conditions. Mr. Clerico said both the Titus and Brennan lots are undersized and a variance would be required, including fees. He also said that a new certified tax list should be submitted. Atty. Anderson confirmed that even though the MLUL is not specific about that matter, the Board has the right to request a current list. Mr. Clerico referenced several checklist items that the Board could waive or grant partial waivers. He said partial waivers could be granted for Items 20 and 30 and waivers for Items, 16, 18, 21, 23 and 39-42. Mr. Clerico also said the Board should review Items 54, 55 and 59 and determine if waivers should be granted. Mr. Kirkpatrick asked Board members if there were concerns with waiving items referenced in Mr. Clerico's letter. There were none.

Mr. Clerico said if the Board granted recommended waivers, the application would not become complete until a current certified tax list, variance request and fees were submitted. Applicant was told those documents are required to be submitted three weeks prior to being placed on an agenda. A certified tax list must be provided for both the Brennan and Titus properties. Atty. Anderson noted that applicant would need a lawyer unless each applicant/property owner represented them self.

Mr. Ford asked for a motion to deem the application complete, contingent on receipt of items recommended by Mr. Clerico. Mr. Kirkpatrick made the motion. Mrs. Corcoran seconded the motion.

Vote: Ayes: Mr. Kirkpatrick, Mrs. Corcoran, Ms. McBride, Mr. Bischoff, Mr. Walchuk, Mr. Nace, Mr. Ryland, Mr. Kastrud, Mr. Ford

Mr. Ford asked the record show that Mr. Kirkpatrick was assuming the chair.

Green Rock Recycling LLC: Block, 22, Lots 15 & 15.01, 3 Frontage Road: Interpretation - "D" Variance/Minor Site Plan: Atty. Joseph Novak was present on behalf of Green Rock Recycling Manager Member Brian Plushanski. Atty. Anderson noted that this was a Board of Adjustment matter and that Mayor McBride and Committeeman Bischoff would not be able to participate. Atty. Novak had no objection to their presence. Atty. Novak said applicant had appeared before the Board earlier this year regarding a construction trailer he had placed on the property. Mr. Plushanski was told by the Zoning Official to appear before the Board. Atty. Anderson indicated that site plan approval for the 10' x 30' trailer/shed would be required. Atty. Novak said there had been site plan approval. Mr. Clerico said that was part of the quarry application. Mr. Novak said that Green Rock Recycling is governed by the NJDEP and has their approval. Atty. Anderson said the shed changes the site and does not appear to be an integral part of the quarry operation. Atty. Novak said there are two operations on the site. One is the quarry and one is a recycling center. Mr. Plushanski said wood, brick, concrete and asphalt, etc. are recycled. Atty. Novak believes the Ordinance provides for a structure as part of the quarry operation. Mr. Kirkpatrick thought that a minor site plan, application and fees and notification to required parties would be all that was needed to have a complete application. He emphasized that he was not willing to call the structure anything other than a construction trailer. Atty. Novak thanked the Board for their time and said applicant will provide requested information and return for a Hearing at a later date. Mr. Clerico mentioned that Mr. Plushanski's Quarry License would be up for renewal in 2014. He said the quarry operation shown on the Recycling Site Plan is different than that what his permit shows. Mr. Clerico suggested that applicant provide parallel applications.

Informal: Kramer Electronics USA: Block 23, 2.04, 6 Route 173 West: Atty. Anderson raised the issue of this being a Board of Adjustment matter. It was decided that it would be; however, Atty. Novak said it was acceptable for Mayor McBride and Committeeman Bischoff to remain for the discussion. Atty. Novak introduced Kramer Electronics President David Bright and the Operations Manager.

Mr. Novak asked President Bright to give an overview of Kramer Electronics operations. Mr. Bright said that Kramer manufactures electronic devices for videos and computers. Kramer has storage space at 96 Route 173 West with a lease expiring in April 2014. The owner of that property needs the storage space leased by Kramer for another tenant. Kramer occupies the first and second floors of the building at 6 Route 173 West and uses 35 of the 209 parking spaces for employees. A tenant will occupy half of the space on the third floor and employ 25 people. There is an excess of parking spaces and Kramer would like to convert 32 underground parking spaces for storage. Mr. Kirkpatrick asked the number of visitors accessing the site. Mr. Bright said the number would never exceed 65 persons. A question was raised about change of tenants and the impact on parking. Atty. Novak indicated the previously approved Resolution gave continuous jurisdiction to the Board. Atty. Anderson noted that without a full application it was difficult to determine whether a parking waiver or modification of the Site Plan would be required. He said conditions might be imposed to address concerns. Mr. Kirkpatrick thought variances to reduce the number of parking spaces would be required. He felt the application should move forward as long as the Board maintained jurisdiction over parking.

Public Hearing: P.S. Construction LLC: Block 22, Lot 27.04, Race Street: Use and Density Variance:

Mayor McBride and Committeeman Bischoff left prior to the Hearing. Atty. Jeffrey Lehrer, representing P.S. Construction, gave an overview of the Use and Density Variance application. Mr. Lehrer said applicant seeks Site Plan approval for the Affordable Units. One of the Affordable Units would be attached to the market-rate single-family home. The other Unit would be located on the second floor of a detached garage. Atty. Lehrer gave a history of the property, including the approved three lot subdivision that created Lots 27.02, 27.03 and 27.04 from Block 22, Lot 27 and the sixteen-lot subdivision of the remaining acreage of Block 22, Lot 27. Mr. Lehrer said a condition of approval of the sixteen-lot subdivision was to apply for Variance relief for the two Affordable Units within ninety days of filing the Final Major Subdivision application. Atty. Lehrer said the Resolution also stated that his client would not be able to secure his eighth building permit until the COAH Units were built and CO's issued. Mr. Lehrer said the concept of on-site affordable units was developed by Board Planner Hintz. The Units are included in the Township's Third Round Housing Element and Fair Share Plan.

Atty. Lehrer said he has worked with Attys. Anderson, Drill and Jost on the Affordable Housing Agreement, the Affordable Housing Deed Restriction and the Developer's Agreement. All of those documents have been negotiated, are acceptable to his client and ready to be executed. Mr. Lehrer said his client is seeking the Board's approval.

Atty. Lehrer said there were three witnesses, Engineer Robert Gazzale, Architect Marc Marion and Planner Elizabeth McKenzie. They were sworn by Atty. Anderson. Mr. Gazzale provided his credentials. They were accepted by the Board. Mr. Gazzale said he had prepared the Site Plan. It was marked Exhibit A-1. Mr. Gazzale gave an overview of Block 22, Lot 27.04. He said proposed on the lot is a four-bedroom, single family dwelling with an attached two-story, three bedroom apartment north of the dwelling. Also proposed is a detached garage with a two-bedroom apartment above.

The property would be accessed by a common drive to be shared by Lot 27.03. Seven parking spaces are provided as per RSIS requirements. Four of those spaces would be interior. Mr. Kastrud raised a concern about enforcement. Buffering and maintenance of the shared driveway was mentioned. Ms. Lelie, Clarke Caton Hintz, said a variance may be required because there are more than six parking spaces connected with the driveway. Mr. Kastrud asked who would be living in the proposed units. Atty. Lehrer said it is contemplated that all units would be rentals. Ms. McKenzie will provide testimony regarding that issue. Atty. Anderson understood a condition of approval would be that the Affordable Units would be rentals. The main dwelling may or may not be. Atty. Lehrer agreed. There are on-site conservation easements that were filed with the Final Plat. Two retaining walls are proposed. The septic system has been approved by the Hunterdon County Health Department. There is a well on the lot. Atty. Lehrer asked that Engineer Richard Roseberry's December 11, 2013 review letter be addressed. Mr. Kirkpatrick concurred. Mr. Gazzale indicated applicant has or will comply with all items in that letter.

Atty. Lehrer asked that Architect Marc Marion provide testimony. Mr. Marion stated his credentials. They were accepted by the Board. Mr. Marion had prepared the "Schematic Plans and Elevations Plan" that was submitted to the Board. He displayed a copy of the Plan. It was marked Exhibit A-2. Mr. Marion gave an overview of the Plan. He said the market rate unit has four bedrooms and two-and-one-half baths, a large covered porch and will have vinyl siding. The attached apartment has a full bedroom on the first floor, with a full bath and there will be two bedrooms and a full bath on the second floor. There are two separate detached garages. One has direct access to the two-bedroom unit upstairs. The other garage has an attached apartment. The appearance from Race Street would be that of a colonial looking home with a detached garage. Mr. Nace asked if the house would blend with other proposed dwellings. Mr. Marion said it would be similar. Regarding impervious surface coverage, Mr. Marion said the door to the apartment could be changed to face the garage and that would shorten the walkway. Mr. Kirkpatrick asked the predominant siding proposed for houses in the sixteen-lot subdivision. Mr. Marion said vinyl siding and stone/brick/pine are proposed. Mr. Kirkpatrick said he would like the proposed Units to be consistent with the sixteen dwellings. Atty. Lehrer asked that Peter Streletz, P.S. Construction, provide information on the matter. He was sworn by Atty. Anderson. Mr. Streletz said the standard house would use vinyl siding; however, some buyers might want to upgrade. Mr. Kirkpatrick suggested the proposed Units be consistent with the siding used on the first seven units of the sixteen-lot subdivision.

Atty. Lehrer asked Elizabeth McKenzie to come forward. Her credentials were known and accepted by the Board. Ms. McKenzie apprised the Board of the variances required. She said there are two "D1" variances, one for a type of principal structure that is not permitted in the district (the two attached single units); the second is for the number of principal uses on the lot, because there will be three separate dwellings. Ms. McKenzie also said a "D5" density variance is required because having three units on a lot does not comply with regulations in the CR District. A "C" variance is required for the size of the two-bedroom apartment above the garage (707 square feet, (sf)). The Ordinance requires eight-hundred sf. Ms. McKenzie cited the ways this proposal complies with the Master Plan,

COAH Regulations and the Municipal Land Use Law. She emphasized two of the Affordable Units will be designated as low-income units; one having two bedrooms and one three bedrooms. Ms. McKenzie indicated that residents of the proposed units would be a demographic of what already exists in the Township. Mr. Nace asked about the septic system approval for nine bedrooms. How does COAH determine the number of people per bedroom? Ms. McKenzie said COAH has guidelines and she had spoken to Mary Beth Lonergan from Carl Hintz's office about the matter. She also said an Administrative Agent must be appointed to handle the Affordable Units. Ms. McKenzie said it would be up to the developer to contact an Agent. In answer to Mr. Nace's question, Ms. McKenzie said COAH allows for three persons to occupy a two-bedroom unit. A three-bedroom unit would allow for a 4.5 person household. If the family grew beyond those numbers, Ms. McKenzie thought the Agent would seek more appropriate housing. She said the maximum number of persons occupying the two Affordable Units would be eight. Ms. McKenzie was uncertain about the number of persons allowed to occupy the Market Unit. Applicant was amenable to the eight-person limit for the Affordable Units. Mr. Walchuk asked about the on-site well and its adequacy to serve the site. Mr. Streletz felt the well was adequate for the proposed Units. Mr. Walchuk asked about water storage tanks and utilities. Mr. Streletz said each Unit would have a storage tank and individual utility meters for gas and electric. Mr. Nace asked how carbon monoxide would be kept from escaping from the garage to the upstairs apartment. Mr. Gazzale said a fire-rated ceiling would be installed as per code and a carbon monoxide detector would be mounted in the apartment.

Mr. Kirkpatrick asked for comments from the Public. Thomas Corrigan, 3 Gebhardt Farm Road, asked if Affordable Housing was mandated by the Township or the State. Mr. Kirkpatrick said this application was a condition of a Major Subdivision approval and therefore, mandated by the Township. Atty. Anderson emphasized that the Township is controlled by the State and they have certain obligations. Mr. Corrigan had a question regarding the ratio of affordable units to private housing. Mr. Corrigan was told that the two affordable units were mandated by the approval of the sixteen lot subdivision. Mr. Corrigan understood that a developer in the Township must provide affordable housing, if mandated by the number of proposed lots. Mr. Kirkpatrick said "in some form, either by building the units, or making a contribution in lieu of". Mr. Corrigan referenced the proposed affordable housing at Milligan Farms and asked if that was not sufficient to meet COAH Obligations. Mr. Kirkpatrick said it was not, based on the current COAH regulations. Mr. Corrigan asked if it was reasonable to believe that people would pay \$700,000 for a house and live next to transient housing. Atty. Lehrer objected to the question. Mr. Kirkpatrick said he could not speculate on that matter. Atty. Anderson said that was an inappropriate question and not relevant to the application.

Atty. Walter Wilson, appearing on behalf of Alyce Noonan, 6 Race Street, understood the condition of approval requiring applicant to construct the COAH Units, however, his client would rather that in lieu contributions be made. Mr. Wilson voiced a concern about the appropriateness of the location of the Units. Mr. Gazzale answered Atty. Wilson's questions regarding the size of the lot and the septic disposal field. He apprised Mr. Wilson that the system had County approval for four bedrooms. Atty. Wilson asked if Highland's approval was required. Mr. Gazzale responded "not that he was aware of".

Atty. Lehrer confirmed for Atty. Wilson that the affordable units were to be built on Block, Lot 27.04, as per memorializing Resolution dated May 22, 2008.

Mr. Kirkpatrick announced that the Public Question period was closed. He asked for comments from the Public. Atty. Wilson said his client did not oppose the developer who was placed in the position of making the Variance & Density application. The problem was reliance upon a report from 2008 for the Board to feel bound to the prior approvals to require the inclusionary aspects of the development. Mr. Wilson asked the Board and Committee to reconsider accepting a contribution from the developer in lieu of the construction of the units. He reemphasized the location was not particularly suitable.

Mr. Kirkpatrick said the Public Comment Period was closed. He asked for any other discussion, comments or questions from the Board. He asked for a motion on the application. Mr. Walchuk asked if a motion could be made to ask for in lieu funds instead of constructing units. Mr. Kirkpatrick said that would require revising the original Subdivision Plan. Atty. Anderson said it would also impact the Township's Affordable Housing Plan. Mr. Kirkpatrick said anything was possible; however, was it practical? Mr. Kirkpatrick delegated the Chair to Mr. Ford.

Mr. Kirkpatrick made a motion to approve the application, subject to the following conditions: siding material consistent with the predominant siding of the first seven units of the Rolling Hills Subdivision; the entry of the attached apartment being moved to the opposite location; a detailed lighting, landscaping and fencing plan shall be submitted to Clarke Caton Hintz for review; no greater than eight occupants in the low income units; the exterior of the building be maintained with a new appearance, for the life of the COAH agreement; and granting of a waiver from the requirement of a twelve-foot setback for the driveway. Mr. Nace seconded the motion.

Mr. Ford asked for further discussion. Mr. Kastrud asked if Mr. Roseberry's report had been covered. Mr. Kirkpatrick said all comments would be responded to in a manner consistent with the testimony provided. Atty. Anderson said there was a condition regarding the developer contracting with the COAH Administrator to be approved by the Township. Mr. Anderson said the approval is for two "D1" variances (one for the type of principal structure that is not a single-family use and the other for the number of principal uses and structures on a single lot). He said the "D5" variance is for density. The "C2" variance is for the size of the apartment over the garage and the exception identified by the Township Planner for the size and location of the driveway.

Mr. Kastrud asked about the number of cars to be parked outside. Should that number be limited? Mr. Kirkpatrick said the final condition was that all outdoor parking shall be limited to the designated parking spaces.

Vote: Ayes: Mr. Kirkpatrick, Mr. Nace, Mr. Walchuk, Mr. Ryland, Mr. Kastrud, Mr. Eschbach, Mr. Ford
Abstain: Mrs. Corcoran

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Correspondence: Pilot Travel Centers LLC: Block 11, Lot 24.03: Anti-Idling Plan Letter dated November 15, 2013 from Atty. Scott Carlson. Mr. Kirkpatrick made a motion to table discussion on the matter. Mr. Kastrud seconded the motion. Mr. Ford will recommend a date for discussion.

Vote: All Ayes

Mr. Ford said there was a memo regarding Improvements by Pilot for the Board's information. He apprised the Board of the improvements.

Scheduling of 2014 Reorganization and Regular January 2014 Meeting: Mr. Nace made a motion for the Board to reorganize on January 9, 2014 and hold their regular meeting on January 23, 2014. Mr. Ryland seconded the motion.

Vote: All Ayes

Mr. Ford announced the December 19, 2013 meeting was cancelled.

Motion to Adjourn: Mr. Nace made a motion to adjourn. Mr. Ryland seconded the motion. 9:35 p.m.

Vote: All Ayes

Grace A. Kocher, Secretary